

Remarks

Claims 1-38 are pending in the application. Applicants have addressed the minor informalities resulting in objections to claims 8 and 37. Moreover, Applicants believe that the provisional double patenting rejection is improper and present reasons below to this effect. Accordingly, all claims are patentable and in condition for allowance, which action is respectfully requested.

Double Patenting Rejection

Without touching on the substantive merits of the provisional double patenting rejection, Applicants respectfully assert that the provisional non-statutory double patenting rejection of claims 1-38 is nonetheless improper. The provisional double patenting rejection is the only rejection remaining in the application. Thus, as a matter of procedure, the rejection should be withdrawn and the application permitted to issue as a patent. *See* MPEP § 804(I)(B).

The claims in the copending application which forms the basis of the provisional double patenting rejection, application Serial No. 09/975,171, have not issued. Therefore, no unjustified or improper timewise extension of the right to exclude exists. Since the claims in the present application are allowable, they should be permitted to issue. The failure of the examiner to do so unjustly delays Applicants' rights from accruing in the present application. Accordingly, Applicants respectfully request that the double patenting rejection be withdrawn so that the pending claims can be allowed to issue as a patent without further Office delay.

CONCLUSION

Applicants have made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicants believe that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is invited to contact the undersigned at his earliest convenience.

Respectfully submitted,

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